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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,312	09/24/2003	Kenneth Rambo	020366-091900US	8021
20350 7590 01/06/2009 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
LU'ONG, ALAN H				
ART UNIT		PAPER NUMBER		
2427				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/671,312

Applicant(s)

RAMBO, KENNETH

Examiner

ALAN LUONG

Art Unit

2427

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,7,9,10,12-14 and 17-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3,4,7,9-10,12-14 and 17-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date 08/21/2008
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Art unit is changed into 2427

Response to Amendment

This Office Action is responsive to the Amendment filed on 10/06/2008.

Claim 15-16, 20 are cancelled. Claims 1, 3-4, 7, 9-10, 12-14 and 17-19 remain pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1, 3, 4, 7, 13-14 and 17-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck et al (US Patent No. 7,143,428; hereinafter US'428), In view of Cooper et al. (US Patent No. 6,754,904).

Regarding to claim 1: Bruck teaches a communications network having multiple users using an instant messaging (IM) application (see **US'428, col. 10 lines 27-30**), Fig. 13 depicts a display of GUI; wherein the users are viewing multiple television programs, the network comprising:

a display device for each of the users (Bruck teaches a communications network having a user (10) each having a display device (14)(see **US'428, Fig. 1 and 4; col. 3 lines 34-43 and col. 6 lines 21-35**); [and]

plural display windows (as "chat region" 108 and TV region 118 of Fig.6; see

US'428, col. 7 lines 26-58) at the display device (84 of Fig.3, **col.6 lines 4-16**), the plural windows for simultaneously displaying multiple content, wherein a first display window displays a broadcast television program and wherein a second display window displays content from the instant messaging (IM) application(see **US'428, Fig. 6 to Fig.8, col. 7 lines 26-58**).

Finally, Bruck teaches a television program identifier 126, (i.e., a show name) as a **program ID identifying the broadcast television program being viewed by each user, (col. 7 lines 51-58)**

However, Bruck is unclear regarding to "a server storing instant messaging content from each of the users, the instant messaging content including instant messages sent from the users and a program ID associated with each of the sent instant messages, and for aggregating instant messaging content including program IDs from the users corresponding to the multiple television programs being viewed by the users, so that video programming activity by multiple users viewing television programs can be tracked on a real time basis at the server in order to reflect moment-by-moment the level of instant messaging activity corresponding to multiple television programs being viewed by the multiple users".

Fig. 12 of Cooper illustrates an server 1204 as **a server storing instant messaging content from each of the users** (i.e. message is sent from one of the buddy list 1110 of Fig. 11), the instant messaging content including **instant messages** sent from the users (i.e. from Set-top box's user can transmit a message to the server)(Cooper, **Fig. 10, col. 6 lines 47-59 and Fig. 12A, col. 7 lines 14-24**); and Fig. 11 depicts display on

Set-top box includes **a program ID [1102] associated with each of the sent instant messages** from [1108] in a TV-enhanced buddy list [1110]; the program ID identifying the broadcast television program being viewed by each user (**Cooper, Fig. 11, col. 7 lines 4-13**) and Fig. 12A, 12B illustrates server data [1204] and log-on list [1206] of a buddy list [1208] **for aggregating instant messaging content including program IDs from the users corresponding to the multiple television programs being viewed by the users (Fig. 12A-12B, col. 7 lines 14-28)** and finally, Fig. 13 shows a process for providing buddy lists that display the show that user is viewing ;**so that video programming activity by multiple users viewing television programs** (i.e. only users log-on the network as box [1206]) **can be tracked on a real time basis at the server [1204] in order to reflect moment-by-moment the level of instant messaging activity corresponding to multiple television programs being viewed by the multiple users"** (**Fig. 13, steps 1300-1304, col. 7 lines 29-38**). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to modify an IM display system of Bruck with a network activity users as taught by Cooper in order to provide user can watch TV, or view Web page, or surf the Internet on his Set-top box with his buddy lists in chat room. (**col. 2 lines 4-34**)

Regarding to claim 3: Bruck also discloses the video programming content (**link 20 of Fig. 1**) is a broadcast television program (**Abstract lines 1-2**) and the broadcast television program is provided over one of a plurality of selectable television channels, and wherein the display device is a television screen. (**US'428, col. 3 lines 46-49**).

Regarding to claim 4: Bruck further discloses the display system of claim 1,

wherein the instant messaging content comprises:

a personal ID associated with a user of the IM application (**US'428, col.10 lines 19-26**).

Regarding to claim 7: As claim 1 above, Bruck also discloses the instant messaging content further comprises a message sent from the remote user to a user at the display system. (**US'428, col.7 lines 28-42**).

Regarding to claim 13, 14: Bruck discloses the display system of claim 1, wherein the programming content is provided to the display system by a satellite (**US'428, col. 3 lines 60-63**) and a cable television service. (**US'428, col. 4 lines 33-39**)

Regarding to claim 17: Bruck further teaches a set top box for each of the users (set-top box 12 of Fig. 1) for receiving the broadcast television program (**see US'428, Fig. 1, col. 3 lines 43-56**) Bruck also teaches the program ID identifying the television program (**US'428, col.7 lines 51-52**), a program ID 126 of Fig. 6, **col.7 lines 59-65**), wherein the IM application captures the program ID at the set top box (**US'428, Fig. 14, col.10 lines 4-26**) so that the program ID identifying the broadcast television program being viewed by each user changes when the television program being viewed by that user changes (**US'428, Figs. 12, 13, col. 8 line 44-col. 9 line 32**).

Regarding to claim 18: Bruck also teaches the display device further includes a set up screen used by each of the users to set up an instant messaging session (**US'428, Fig. 11, col. 8 lines 36-43**), and wherein the program ID is entered by the user at the set up screen (**US'428, Figs. 12, 13, col. 8 line 44-col. 9 line 32**).

3. Claims **9-10, 12 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck and Cooper et al.; in view of US patent No.6,757,365 (US'365) to Bogard.

Regarding to claims 9, 10: Bruck and Cooper teach the display system of claim 1, wherein the instant messaging content are implemented using a communications channel established by an IM server over Internet Provider, but fails to teach the telephone communications line is connected at a telephone device separate from the display system over the communications network between the user at the display system and the remote user, when the telephone communications display element uses the public switched telephone network (PSTN).

Bogard teaches an instant messaging via telephone interfaces to communicate between users (telephone) and IM server (300 and 308 of Fig. 3) by the public switched telephone network (PSTN) or Voice over Internet Protocol (VoIP) (**US'365, col.5 lines 42-54**). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify multiple users system of Bruck and Cooper with the telephone communications line using the Public Switched Telephone Network (PSTN) as taught by Bogard; in order to establish a complete Instant message service including the voice portal and chat web service.

Regarding to claim 12. Bruck and Cooper teach the display system of claim 1, wherein a user at the display system is a subscriber to an ISDN service, but fail to disclose a VDSL service provides telephone, video programming and internet access service to the subscriber over the communications network (**US'365, col.5 lines 55-67**).

Bogard teaches a DSL service, a cable modem etc... provide a telephone, video programming and internet access service to the subscriber over the communications network (col.5 lines 55-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify multiple users IM system of Bruck and Cooper with the DSL service on a telephone communication network as taught by Bogard; in order to modernize the communication link between STB and the Internet Provider.

Regarding to claim 19: Bruck teaches the display device further includes a set up screen used by each of the users to set up an instant messaging session (**US'428, Fig. 11, col. 8 lines 36-43**), and wherein the program ID is entered by the user at the set up screen (**US'428, Figs. 12, 13, col. 8 line 44-col. 9 line 32**) but fails to teach personal profile information of the user is entered at a profile screen, so that the programming activity being tracked can be associated with demographic information of users collected from the personal profile data.

Bogard; in the same Instant messaging field, teaches a user profile information is entered at a profile screen (**see US'365, col. 3 line 39-col. 4 line 13**), so that the programming activity being tracked can be associated with demographic information of users collected from the personal profile data (**see US'365, col. 4 lines 47-56**). It would have been obvious to one of ordinary skill in the art at the time of invention was made to modify a user profile information is associated with demographic information of as taught by Bogard; with multiple users IM system of Bruck and Cooper; in order to

establish a complete Instant message service including the voice portal and chat web service.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 3-4, 7, 9-10, 12-14 and 17-19 have been considered but are moot in view of the new ground(s) of rejection.
- 5.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571)270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/
Primary Examiner, Art Unit 2421

01/02/2009

/ALAN LUONG/
Examiner, Art Unit 2427